

Message Text

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TO AMEMBASSY TOKYO

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E.O. 11652; N/A

TAGS: EINV, JA

SUBJECT: CALIFORNIA CORPORATE INCOME TAX

1. COUNSELOR OZAKI OF THE JAPANESE EMBASSY CALLED AT DEPT (EA/J) NOV. 4 TO PRESENT A BRIEF DIPLOMATIC NOTE CONCERNING CALIFORNIA CORPORATE INCOME TAX. TEXT FOLLOWS:

"THE EMBASSY OF JAPAN PRESENTS ITS COMPLIMENTS TO THE DEPARTMENT OF STATE AND HAS THE HONOR TO INFORM THE LATTER AS FOLLOWS.

THE JAPANESE GOVERNMENT CONSIDERS THAT UNITARY TAXATION OF CORPORATE INCOME BY THE STATE OF CALIFORNIA WILL MAKE IT DIFFICULT FOR JAPANESE CORPORATIONS TO MAKE DIRECT INVESTMENTS IN THE STATE OF CALIFORNIA AND THIS MAY IMPEDE CAPITAL EXCHANGE BETWEEN JAPAN AND THE UNITED STATES. THE JAPANESE GOVERNMENT WISHES TO DRAW THE ATTENTION OF THE
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UNITED STATES GOVERNMENT TO THIS ISSUE".

2. OZAKI EXPLAINED THAT IN CALCULATING THE TAX BASE OF FIRMS DOING BUSINESS IN CALIFORNIA, THE STATE REQUIRES EACH FIRM TO SUBMIT A CONSOLIDATED BALANCE SHEET COVERING THE OPERATIONS OF THAT FIRM AND ALL ITS AFFILIATES WORLD-WIDE. THE STATE THEN CALCULATES THE RATIOS OF PROPERTY,

WAGES AND SALES WITHIN AND OUTSIDE OF CALIFORNIA. AN AVERAGE OF THESE RATIOS IS APPLIED TO THE FIRMS WORLD-WIDE CONSOLIDATED INCOME TO DETERMINE THE FIRMS CALIFORNIA CORPORATE INCOME TAX BASE. JAPANESE FIRMS HAVE MADE TWO COMPLAINTS ABOUT THIS PROCEDURE. FIRST, THEY CLAIM THAT THE USE OF CONSOLIDATED STATISTICS AND THE VARIOUS RATIOS DOES NOT GIVE AN EQUITABLE ASSESSMENT OF THE INDIVIDUAL FIRM'S INCOME IN CALIFORNIA. SECONDLY, WHILE RECOGNIZING THAT THE LAW IS APPLIED EQUALLY TO ALL FIRMS, AMERICAN AND FOREIGN, THEY CLAIM IT IN EFFECT PLACES AN UNUSUAL BURDEN ON JAPANESE CORPORATIONS WHICH, UNLIKE THEIR AMERICAN COUNTERPARTS, DO NOT REGULARLY COMPILE THE CONSOLIDATED STATISTICS REQUIRED BY THE LAW. OZAKI STATED THAT THE GOJ BELIEVED THIS CALIFORNIA LAW MIGHT THEREFORE WORK TO IMPEDE JAPANESE INVESTMENT IN CALIFORNIA.

3. WHEN ASKED, OZAKI REPEATED THAT THE GOJ ONLY WISHED TO APPRISE THE USG OF THIS ISSUE AND HAD NO SPECIFIC REQUEST TO MAKE CONCERNING POSSIBLE USG ACTION. OZAKI ADDED THAT THE SONY CORPORATION, WHOSE NAME HE MENTIONED SEVERAL TIMES, WAS CONSIDERING TAKING SOME LEGAL ACTION IN CALIFORNIA TO CHALLENGE WHAT IT BELIEVED WERE INEQUITIES IN THE LAW. DEPTOFF UNDERTOOK ONLY TO BRING MATTER TO ATTENTION OF CONCERNED GOVERNMENT OFFICES.

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